

GUJARAT TECHNOLOGICAL UNIVERSITY
BE- SEMESTER-III (NEW) EXAMINATION – WINTER 2024

Subject Code: 3130007

Date: 03-12-2024

Subject Name: Indian Constitution

Time: 10:30 AM TO 12:30 PM

Total Marks: 50

Instructions:

1. Attempt all questions.
2. Make suitable assumptions wherever necessary.
3. Figures to the right indicate full marks.
4. Simple and non-programmable scientific calculators are allowed.

		Marks
Q.1	(a) Give a definition of constitutional law and discuss its importance. (b) What were the main factors that influenced the development of the Indian Constitution?	05 05
Q.2	(a) Discuss the distinctive characteristics of the Indian Constitution in relation to its flexibility and rigidity. (b) What are basic rights? Describe their importance in the Indian Constitution.	05 05
	OR	
	(b) Describe the idea of “Equality before the law” as outlined in Article 14.	05
Q.3	(a) Discuss the reasonable restrictions imposed on the freedoms under Article 19. (b) Discuss the significance of Directive Principles of State Policy (DPSP) in the governance of India.	05 05
	OR	
Q.3	(a) What does the concept of “Right to Life” encompass in Article 21 of the Indian Constitution? (b) How the Union and the States are allocated legislative and financial powers?	05 05
Q.4	(a) List the fundamental duties mentioned in the Indian Constitution. (b) What are the constitutional powers of the President of India in a parliamentary system?	05 05
	OR	
Q.4	(a) How does the amendment process ensure flexibility in the Constitution? (b) Discuss the significance of the First Amendment to the Indian Constitution.	05 05
Q.5	(a) Detail the circumstances in which a National Emergency may be announced. (b) Discuss the impact of the 42nd Amendment on the Indian Constitution.	05 05
	OR	
Q.5	(a) Describe the constitutional rules regarding Panchayati Raj organizations. (b) What is a Financial Emergency? How does it affect the financial stability of the country?	05 05

Q.1 (a) Give a definition of constitutional law and discuss its importance. (5 mark)

Definition / Introduction

Constitutional law is the branch of law that deals with the structure, powers, and functions of the government as defined in the Constitution of a country. It sets the framework within which the government operates and also protects the fundamental rights of citizens. In simple words, constitutional law explains *how the government should work* and *what limits exist on its power*. It also defines the relationship between the State and the people.

Explanation

Constitutional law ensures that every action of the government is done according to the Constitution. It provides rules regarding the legislature, executive, and judiciary, and clearly defines how each organ should function. It also lays down the concept of separation of powers, rule of law, and constitutional supremacy. If any law or action violates the Constitution, courts have the power to declare it invalid. This helps maintain control over arbitrary or unfair governmental actions.

Importance of Constitutional Law

- **Ensures Rule of Law:** It makes sure that no one, including the government, is above the law.
- **Defines Structure of Government:** It explains how the central and state governments are formed, and what powers they have.
- **Protects Fundamental Rights:** It guarantees basic rights such as equality, freedom, and protection from exploitation.
- **Prevents Abuse of Power:** By limiting government authority, it prevents dictatorship and misuse of power.

- **Provides Stability:** A written constitutional framework brings political and legal stability in the country.
- **Promotes Social Justice:** Provisions like equality before law and prohibition of discrimination help create a fair society.
- **Guides Government Functioning:** Every policy, law, or action must follow constitutional provisions, ensuring transparency.
- **Conflict Resolution:** It helps resolve disputes between individuals, government bodies, and different levels of government.
- **Democratic Governance:** It supports free elections, independent judiciary, and accountable administration.

(b) What were the main factors that influenced the development of the Indian Constitution? (5 mark)

Introduction

The Constitution of India is the result of various historical events, political experiences, and social movements. It did not develop suddenly; instead, it evolved through many years of struggle, reform efforts, and the influence of different sources. The framers of the Constitution studied several world constitutions and also learned from India's own administrative history before finalizing it.

Main Factors Influencing the Development of the Indian Constitution

1. British Rule and Colonial Laws

- India lived under British rule for almost 200 years, which shaped the administrative structure.
- Acts such as the **Government of India Acts (1858, 1909, 1919, 1935)** influenced federal structure, provincial autonomy, and public services.

- The 1935 Act especially inspired features like federalism, governor's powers, and administration.

2. Freedom Struggle and National Movement

- Indian leaders gained political experience through the freedom struggle.
- Ideas of **liberty, equality, democracy, and justice** became core values.
- Movements led by leaders like Gandhi, Nehru, and Patel shaped constitutional ideals like fundamental rights and decentralization.

3. Influence of World Constitutions

The framers studied many global constitutions to adopt the best features:

- **British Constitution:** Parliamentary system, rule of law, cabinet system.
- **US Constitution:** Fundamental rights, judicial review, independence of judiciary.
- **Irish Constitution:** Directive Principles of State Policy.
- **Canadian Constitution:** Quasi-federal structure.
- **Australian Constitution:** Concurrent list concepts and trade rules.
- **French Constitution:** Principles of liberty, equality, fraternity.

4. Social, Cultural, and Religious Diversity of India

- India is a diverse country with different languages, religions, and traditions.
- The Constitution needed to balance unity and diversity.

- This led to federalism, minority protection, cultural rights, and equality provisions.

5. Need for Social and Economic Reform

- The Constitution aimed to remove social evils like untouchability and inequality.
- It introduced **Directive Principles** for economic development, welfare, and social justice.
- Land reforms, education rights, and equality measures were influenced by these needs.

6. Partition of India (1947)

- Partition created challenges like refugee settlement, communal tensions, and economic instability.
- This influenced strong central government powers and emergency provisions to maintain national unity.

7. Experience of the Constituent Assembly

- The Constituent Assembly debated 165 days across 3 years.
- Opinions of experts, committees, and public inputs shaped the final draft.
- Leaders used practical experience from working in provincial governments and legislatures.

Q.2 (a) Discuss the distinctive characteristics of the Indian Constitution in relation to its flexibility and rigidity. (5 mark)

Introduction

The Indian Constitution is known for being neither completely rigid nor completely flexible. Instead, it is a unique blend of both qualities. This balanced nature allows the Constitution to maintain stability while also adapting to changing social and political needs. The framers

designed it in such a way that it can be amended when required, but with necessary safeguards to protect its basic structure.

Meaning of Rigidity and Flexibility

- A **rigid constitution** is difficult to amend because of strict procedures (example: U.S. Constitution).
- A **flexible constitution** is easy to amend and can be changed like ordinary laws (example: British Constitution).
- The Indian Constitution contains features of both, making it partly rigid and partly flexible.

Characteristics Showing Flexibility

- **Simple Amendment Procedure:** Many provisions can be amended by Parliament through a simple majority, just like passing an ordinary law.
- **Scope for Social Change:** Flexible parts allow the Constitution to adjust to new social and economic conditions.
- **Frequent Amendments:** Over time, India has made several amendments to respond to public needs and developmental goals.
- **Adaptability:** Parliament can easily modify rules related to citizenship, administration, and government policies.

Characteristics Showing Rigidity

- **Special Majority Requirement:** Important provisions such as Fundamental Rights and Directive Principles require a special majority (2/3rd members present + voting).
- **State Ratification Needed:** Federal matters such as distribution of powers between Centre and States require approval from at least half of the State legislatures.

- **Judicial Review:** The Supreme Court can strike down amendments that violate the “basic structure”, making certain principles rigid and unchangeable.

Balance Between Rigidity and Flexibility

- The Constitution protects essential democratic values by making them rigid.
- At the same time, it allows smooth functioning of government by keeping administrative and procedural matters flexible.
- This balanced approach helps India maintain stability while coping with changing social and political environments.

(b) What are basic rights? Describe their importance in the Indian Constitution. (5 mark)

Introduction / Definition

Basic rights, commonly known as **Fundamental Rights**, are the essential freedoms and protections guaranteed to every citizen by the Indian Constitution. These rights are included in **Part III** of the Constitution and ensure that every person can live with dignity, equality, and freedom. They act as limitations on the power of the government, preventing any misuse of authority.

What Are Basic Rights?

Basic rights are those rights that are necessary for the development of an individual's personality and for the functioning of a democratic society. They cannot be taken away by the government except under specific conditions defined in the Constitution. The major Fundamental Rights include:

- **Right to Equality**
- **Right to Freedom**
- **Right against Exploitation**

- **Right to Freedom of Religion**
- **Cultural and Educational Rights**
- **Right to Constitutional Remedies**

Importance of Basic Rights in the Indian Constitution

1. Protect Individual Freedom

- These rights ensure freedom of expression, movement, profession, and personal liberty.
- They allow individuals to speak, act, and live freely within legal boundaries.

2. Promote Equality

- Fundamental Rights remove discrimination based on caste, religion, gender, or place of birth.
- They ensure equal opportunities in employment and public life.

3. Prevent Government Misuse

- By limiting the powers of the State, these rights prevent dictatorship or arbitrary actions.
- Any violation can be challenged in courts under the **Right to Constitutional Remedies (Article 32)**.

4. Ensure Social Justice

- Rights such as abolition of untouchability and prohibition of forced labour promote social reforms.
- They help create a fair and equal society.

5. Protect Cultural and Religious Freedom

- Citizens are free to practice their religion and preserve their culture.

- Minority groups receive protection for their educational and cultural identity.

6. Strengthen Democracy

- Fundamental Rights form the foundation of democratic governance.
- They ensure participation, freedom of thought, and accountability of authorities.

7. Promote Human Dignity

- Rights protect life, liberty, privacy, and dignity.
- They help individuals lead a respectable and meaningful life.

OR

(b) Describe the idea of “Equality before the law” as outlined in Article 14. (5 mark)

Introduction

Article 14 of the Indian Constitution guarantees the principle of **Equality before the law** and **Equal protection of the laws** to every person within the territory of India. It ensures that the State cannot discriminate unfairly and must treat all individuals equally in similar circumstances. This provision is one of the most important Fundamental Rights and forms the foundation of the rule of law in India.

Meaning of “Equality Before the Law”

- “Equality before the law” means that **no person is above the law**, whether rich or poor, powerful or ordinary.
- Every individual is subject to the same laws of the country.
- This concept is inspired from the **British Constitution** and is linked to the idea of the **Rule of Law** established by A.V. Dicey.

- It ensures that the State cannot give special privileges or unfair advantages to any person.

Meaning of “Equal Protection of the Laws”

- This part of Article 14 comes from the **American Constitution**.
- It means that people in similar situations must be treated similarly by the government.
- It allows **reasonable classification**, meaning the State can make laws for specific groups if there is a fair and logical reason (e.g., welfare schemes for women, children, weaker sections).
- However, **arbitrary classification** is not allowed.

Main Features of Article 14

- Ensures **uniform application** of the law.
- Protects against **arbitrary** or unfair state actions.
- Allows **reasonable classification** but prohibits discrimination without a valid reason.
- Applies to both **citizens and non-citizens**.
- Covers both **legislative** (law-making) and **executive** (government actions).

Importance of Article 14

- Promotes fairness, justice, and equality in society.
- Prevents abuse of power by the government.
- Forms the basis for welfare laws and protective discrimination (e.g., reservations).
- Ensures social equality by preventing discrimination on grounds such as caste, gender, or religion.
- Strengthens democracy by upholding the rule of law.

Q.3 (a) Discuss the reasonable restrictions imposed on the freedoms under Article 19. (5 mark)

Introduction

Article 19 of the Indian Constitution provides six important freedoms to citizens, such as freedom of speech, movement, assembly, and profession. However, these freedoms are **not absolute**. To maintain public order, national security, and social harmony, the Constitution allows the State to impose **reasonable restrictions**. These restrictions must be fair, justified, and not excessive.

Meaning of Reasonable Restrictions

- Restrictions that are required for protecting public interest.
- They must be proportional and not arbitrary.
- They must be based on law, not on personal decisions of authorities.
- Courts have the power to review whether a restriction is reasonable.

Reasonable Restrictions under Article 19

1. Security of the State

- Freedom can be restricted to prevent activities that threaten national security.
- Example: control on speeches that promote rebellion or violence.

2. Friendly Relations with Foreign States

- Restrictions can be applied to prevent actions that may harm India's relations with other countries.

3. Public Order

- Freedom cannot be used to disturb peace and order in society.

- Example: banning inflammatory speeches or violent gatherings.

4. Decency and Morality

- Laws can restrict freedom to prevent immoral, vulgar, or indecent acts.
- Example: banning publication of obscene materials.

5. Contempt of Court

- Freedom of speech cannot include acts that lower the authority or dignity of courts.

6. Defamation

- A person cannot use freedom of speech to harm another person's reputation.
- Defamation laws act as restrictions.

7. Incitement to an Offence

- Any speech or action that encourages crime or violence can be restricted.

8. Sovereignty and Integrity of India

- Any activity that threatens the unity, security, or integrity of the nation can be restricted.
- This was added through the **16th Constitutional Amendment**.

Why These Restrictions Are Important

- To balance individual freedom with public welfare.
- To protect national security and sovereignty.
- To maintain peace, order, and social discipline.
- To safeguard the rights and dignity of other individuals.

(b) Discuss the significance of Directive Principles of State Policy (DPSP) in the governance of India. (5 mark)

Introduction

The Directive Principles of State Policy (DPSP) are mentioned in **Part IV** of the Indian Constitution. They are guidelines and principles that the central and state governments must follow while making laws and policies. Although DPSPs are **not legally enforceable**, they are considered essential for establishing a just and welfare-oriented society.

Purpose of DPSP

- To guide the government in creating social and economic policies.
- To promote the idea of a welfare state.
- To reduce inequality and uplift weaker sections of society.
- To ensure that governance is based on justice – social, economic, and political.

Significance of DPSP in Governance

1. Foundation for a Welfare State

- DPSPs direct the government to work for the welfare of all citizens.
- Policies like free education, employment schemes, and health services are based on DPSPs.

2. Social and Economic Justice

- They promote equal distribution of wealth and resources.
- Encourage removal of poverty, unemployment, and social inequalities.

3. Guidance for Law-Making

- All major social and economic laws such as land reforms, labour laws, and environmental laws have been influenced by DPSPs.
- They help the government frame policies aligned with constitutional values.

4. Protection of Weaker Sections

- DPSPs require the State to protect scheduled castes, scheduled tribes, women, and children.
- Policies for reservations, mid-day meals, and women's welfare originate from these principles.

5. Promotion of Education and Health

- Article 45 inspired laws for compulsory and free education for children.
- DPSPs also encourage better public health and living conditions.

6. Good Governance

- They emphasize democratic values like equal justice, decentralization, village panchayats, and transparency.
- DPSPs promote fairness and ethical governance.

7. Environmental Protection

- The government is guided to protect forests, wildlife, and the natural environment.
- Many environmental laws are a result of DPSP principles.

8. Harmonious Society

- DPSPs encourage peace, international cooperation, and respect for international law.
- They help India maintain good relations globally.

OR

Q.3 (a) What does the concept of “Right to Life” encompass in Article 21 of the Indian Constitution? (5 mark)

Introduction

Article 21 of the Indian Constitution states: **“No person shall be deprived of his life or personal liberty except according to procedure established by law.”**

This is one of the **most fundamental and widest** rights, protecting the life and liberty of every person—citizens as well as non-citizens. Over the years, the Supreme Court has expanded its meaning to include many related rights necessary for a dignified life.

Meaning of Right to Life

- “Right to Life” does not mean mere physical survival.
- It includes the **right to live with dignity**, safety, and basic human values.
- It guarantees that life cannot be taken away except through a fair, just, and reasonable legal procedure.

Key Elements Encompassed Under Article 21

1. Right to Live with Human Dignity

- Life includes respect, dignity, and honour.
- Any act that humiliates or degrades a person violates Article 21.

2. Right to Personal Liberty

- Every person has the freedom to move, act, and live freely unless restricted by a valid law.
- Arbitrary arrest or detention is not allowed.

3. Right to Privacy

- Recognised as a fundamental right.

- Protects personal data, family life, communication, and private decisions.

4. Right to Livelihood

- Without livelihood, one cannot live with dignity.
- Government actions destroying a person's employment may violate Article 21 unless due process is followed.

5. Right to Health

- The State must ensure medical facilities, clean drinking water, and public health services.
- Failure to provide essential healthcare can violate Article 21.

6. Right to a Clean Environment

- A pollution-free environment is essential for a meaningful life.
- Environmental protection laws are supported by Article 21.

7. Right to Shelter

- Includes adequate living space, safe conditions, and basic amenities.
- Not limited to physical walls but includes human comfort and security.

8. Right to Education (for children)

- Linked with dignity and development; strengthened by Article 21A for children aged 6–14.

9. Right Against Cruel or Inhuman Treatment

- Torture, custodial violence, and degrading treatment are violations of Article 21.

10. Right to Legal Aid & Fair Trial

- The government must provide free legal aid to those who cannot afford it.
- Trials must be fair, speedy, and just.

(b) How the Union and the States are allocated legislative and financial powers? (5 mark)

Introduction

India follows a **federal system**, where powers are divided between the **Union (Central Government)** and the **State Governments**. This division is clearly described in the **Constitution of India**, primarily in the **Seventh Schedule** and related Articles. The aim is to avoid conflicts, ensure smooth governance, and maintain national unity while respecting regional needs.

1. Allocation of Legislative Powers

Legislative powers determine **who can make laws** on which subjects. These powers are divided through the **Three Lists** in the Seventh Schedule:

(a) Union List (List I)

- Contains subjects of national importance.
- Only the **Parliament** can make laws on these subjects.
- Examples: Defence, Foreign Affairs, Banking, Railways, Atomic Energy, Currency.
- Ensures national uniformity in key areas.

(b) State List (List II)

- Contains subjects of local or regional importance.
- Only **State Legislatures** can make laws on these matters.

- Examples: Police, Public Health, Agriculture, Land, Local Government.
- Gives states freedom to manage their local needs.

(c) Concurrent List (List III)

- Contains subjects on which **both Union and States** can make laws.
- Examples: Education, Forests, Marriage and Divorce, Trade Unions, Labour Welfare.
- If there is a conflict, **Union law prevails** over State law (except when the state law gets Presidential assent).

Power of Parliament Over State List in Special Situations

In certain cases, Parliament can make laws on State List subjects:

- During **National Emergency**
 - When **Rajya Sabha** passes a resolution
 - For implementing **international agreements**
 - When **States request Parliament** to legislate
-

2. Allocation of Financial Powers

Financial powers determine **how money is raised and distributed** between the Centre and States.

(a) Taxation Powers

- The Constitution clearly divides powers to levy and collect taxes:

Union's Tax Powers

- Income Tax (except agricultural income)
- Customs Duty

- Corporate Tax
- GST (shared with states), Excise Duty on certain goods
- Union can collect more taxes because national responsibilities are larger.

State's Tax Powers

- State GST (SGST)
- Tax on land, agricultural income
- Stamp duty, Excise on alcohol, Vehicle tax
- States use these taxes for local development.

(b) Distribution of Revenues

- Financial relations are governed by **Article 280** and the **Finance Commission**.
- The Finance Commission recommends how central taxes should be shared with states.
- This ensures **balanced development** across the country.

(c) Grants-in-Aid (Article 275)

- The Union government provides financial assistance to states, especially backward or developing regions.
- Helps states manage welfare schemes and infrastructure.

(d) GST Council

- A constitutional body for making decisions related to the Goods and Services Tax.
 - Both Union and States participate, ensuring cooperative federalism.
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Q.4 (a) List the fundamental duties mentioned in the Indian Constitution. (5 mark)

Introduction

Fundamental Duties are listed in **Article 51A** of the Indian Constitution. These duties remind citizens of their moral obligations toward the nation. They were added by the **42nd Constitutional Amendment (1976)** and later one more duty was added by the **86th Amendment (2002)**, making a total of **11 duties**. Though not enforceable by law, they act as important guidelines for responsible citizenship.

Fundamental Duties (Article 51A)

Every citizen of India shall:

- 1. Abide by the Constitution and respect its ideals, the National Flag, and the National Anthem.**
- 2. Cherish and follow the noble ideals** that inspired the national freedom struggle.
- 3. Uphold and protect the sovereignty, unity, and integrity of India.**
- 4. Defend the country** and render national service when called upon to do so.
- 5. Promote harmony and the spirit of common brotherhood** among all Indians, transcending religious, linguistic, and regional differences; **renounce practices derogatory to the dignity of women.**
- 6. Value and preserve the rich heritage of India's composite culture.**

7. **Protect and improve the natural environment**, including forests, lakes, rivers, and wildlife, and have compassion for living creatures.
 8. **Develop scientific temper, humanism, and the spirit of inquiry and reform.**
 9. **Safeguard public property** and abjure (avoid) violence.
 10. **Strive towards excellence** in all spheres of individual and collective activity.
 11. **Provide opportunities for education to children** between the age of 6 and 14 years (added by the 86th Amendment).
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(b) What are the constitutional powers of the President of India in a parliamentary system? (5 mark)

Introduction

The President of India is the **constitutional head of the State** and the **supreme commander of the armed forces**. Though India follows a **parliamentary system**, where real executive power lies with the Council of Ministers, the President exercises several important powers as defined in the Constitution. These powers are mainly exercised on the advice of the Prime Minister and the Council of Ministers.

Constitutional Powers of the President

1. Executive Powers

- Appoints the **Prime Minister**, Council of Ministers, Governors of States, Chief Election Commissioner, UPSC members, and other key officials.
- Administers Union Territories through administrators.

- All executive actions of the government are taken in the name of the President.

2. Legislative Powers

- Summons, prorogues, and dissolves the **Lok Sabha**.
- Addresses Parliament at the beginning of the first session every year.
- Can send messages to Parliament on important issues.
- A Bill becomes law only after the President's assent.
- Has power to withhold or return a Bill (except Money Bills) for reconsideration.
- Issues **Ordinances** when Parliament is not in session.

3. Financial Powers

- No money bill can be introduced in Lok Sabha without the **President's recommendation**.
- Causes the **Annual Budget** to be laid before Parliament.
- Controls the Contingency Fund of India for urgent expenditure.

4. Judicial Powers

- Appoints the **Chief Justice of India** and other Supreme Court and High Court judges.
- Has the power to grant **pardon, reprieve, respite, remission**, or suspend and commute punishment awarded by courts, including death sentences.

5. Military Powers

- Acts as the **Supreme Commander** of the Army, Navy, and Air Force.
- Appoints chiefs of the armed forces.

- Can declare **war or peace** based on the advice of the government.

6. Diplomatic Powers

- Represents India in international affairs.
- Appoints ambassadors and receives foreign envoys.
- Signs treaties and agreements on the advice of the government.

7. Emergency Powers

The President plays a crucial role during emergencies:

- **National Emergency (Article 352)**
- **State Emergency / President's Rule (Article 356)**
- **Financial Emergency (Article 360)**

These powers significantly expand the President's role during crises.

OR

Q.4 (a) How does the amendment process ensure flexibility in the Constitution? (5 mark)

The amendment process under **Article 368** ensures flexibility in the Indian Constitution by allowing it to adjust to changing needs while maintaining stability. This is achieved in the following ways:

1. Three Types of Amendments

The Constitution provides **three levels of amendment**—

(i) By **simple majority**,

(ii) By **special majority**, and

(iii) **By special majority + ratification by half of the states.**

This ensures that minor changes are easy, while important changes are more controlled.

2. Adapts to Changing Times

The Constitution can be updated according to new social, economic, and political conditions, helping it remain relevant.

3. Balance Between Rigidity and Flexibility

It is not too rigid like some constitutions, nor too flexible. Essential features are protected with strict procedures, while ordinary matters are easily amendable.

4. Ensures Democratic Participation

Amendments require discussion and approval by elected members of Parliament and sometimes States, reflecting the people's will.

5. Supports Progressive Reforms

Landmark reforms like the Right to Education, Panchayati Raj, and changes to Fundamental Rights were possible due to this flexible amendment mechanism.

(b) Discuss the significance of the First Amendment to the Indian Constitution. (5 mark)

The **First Amendment Act, 1951** was the earliest and one of the most important amendments made to the Indian Constitution. It was introduced to remove practical difficulties faced in governance and to clarify certain constitutional provisions. Its significance is as follows:

1. Strengthened Freedom of Speech with Reasonable Restrictions

The amendment added new grounds like **public order, friendly relations with foreign states, and incitement to an offence** under Article 19(2).

This allowed the government to control speeches that threatened national security or public order.

2. Validation of Land Reforms

To support land redistribution and abolish zamindari, it inserted **Articles 31A and 31B** and created the **Ninth Schedule**, protecting certain land reform laws from judicial review.

3. Expanded the Scope of Reservation

It amended Article 15 to allow **special provisions for socially and educationally backward classes**, strengthening India's commitment to social justice.

4. Balanced Fundamental Rights with Social Needs

The amendment clarified that rights like free speech cannot be used to harm public order or hinder socio-economic reforms.

5. Set the Direction for Constitutional Growth

Being the first amendment, it established a precedent that the Constitution could be modified to meet emerging challenges and goals of the nation.

Q.5 (a) Detail the circumstances in which a National Emergency may be announced. (5 mark)

A **National Emergency** under Article 352 of the Indian Constitution is a special situation in which the President declares that the security of India is threatened. It is one of the most important emergency provisions designed to protect the nation during extraordinary conditions. A National Emergency can be proclaimed only on specific grounds mentioned in the Constitution. The main circumstances are:

1. War

When India is involved in an actual war with another country, the President can declare a National Emergency. This ensures that the government can mobilize all resources for national defense and maintain stability.

2. External Aggression

If India faces an attack or threat of attack from an external enemy, even if war is not formally declared, a National Emergency can be imposed. This helps the government take immediate action to protect borders and citizens.

3. Armed Rebellion (Earlier “Internal Disturbance”)

When a serious internal conflict such as a violent uprising, large-scale terrorism, or armed revolt threatens the unity and security of the country, the President may announce an Emergency. This allows the central government to take strong steps to restore law and order.

4. Advice of the Council of Ministers

The President can declare a National Emergency only on the **written recommendation of the Prime Minister and the Council of Ministers**. This ensures a democratic procedure and prevents misuse.

5. Threat Perception, Not Only Actual Occurrence

An Emergency can be proclaimed even if the danger of war, aggression, or armed rebellion is **imminent**, meaning it is likely to happen soon. This preventive measure strengthens national security.

6. Parliamentary Approval Required

The proclamation must be approved by both Houses of Parliament within **one month**, ensuring constitutional checks and preventing arbitrary use.

(b) Discuss the impact of the 42nd Amendment on the Indian Constitution. (5 mark)

The **42nd Amendment Act, 1976** is one of the most significant amendments in the history of the Indian Constitution. It was enacted during the Emergency period and made several major changes affecting the Constitution's structure, powers, and philosophy. Its impact is as follows:

1. Strengthening the Power of Parliament

- The amendment **curtailed the power of judiciary** to review certain laws.
- It added the words “**Socialist, Secular, and Integrity of the Nation**” to the Preamble.
- This emphasized the government’s control over socio-economic policies and reinforced the idea of a **strong Parliament**.

2. Fundamental Duties

- Introduced **Part IV-A** in the Constitution, listing **Fundamental Duties of citizens** under Article 51A.
- This was a major step in making citizens aware of their moral responsibilities towards the nation.

3. Directive Principles Over Fundamental Rights

- The amendment asserted the **primacy of Directive Principles** over Fundamental Rights in matters of socio-economic reforms.
- Laws made to implement Directive Principles could not be challenged for violating Fundamental Rights.
- This strengthened the government’s ability to implement welfare policies.

4. Extension of Tenure

- The amendment extended the **term of Lok Sabha and State Assemblies** from 5 years to **6 years**.
- Later, this was partially reversed, but it highlighted attempts to centralize power.

5. Changes in the Preamble

- Added the words “**Socialist**” and “**Secular**”, emphasizing the commitment to equality, social justice, and religious neutrality.

6. Impact on Federalism

- Strengthened **central government powers** over states, especially during emergencies.
- Shifted the balance towards a **unitary bias**, giving the Centre more authority in governance.

7. Overall Impact

- Increased **executive and parliamentary supremacy**.
- Reduced the **judiciary's review powers**, particularly in socio-economic legislation.
- Introduced **Fundamental Duties**, promoting civic responsibility.
- Made India more explicitly **socialist and secular**, reflecting its developmental goals.

OR

Q.5 (a) Describe the constitutional rules regarding Panchayati Raj organizations.

Introduction

Panchayati Raj Organizations (PROs) are the system of **local self-government in rural India**. They were given constitutional recognition through the **73rd Constitutional Amendment Act, 1992**. The main aim is to promote **decentralization of power**, encourage **people's participation in governance**, and ensure **effective implementation of development programs** at the grassroots level.

Constitutional Rules Regarding Panchayati Raj

1. Three-tier Structure (Article 243B)

- PROs are organized at **three levels**:

1. **Village Panchayat (Gram Panchayat)**

2. Intermediate Level (Panchayat Samiti) – in states with population above 20 lakhs

3. District Level (Zila Parishad)

- This structure ensures governance at village, block, and district levels.

2. Regular Elections (Article 243E)

- Panchayati Raj bodies must have **direct elections** every **five years**.
- The State Election Commission supervises elections to ensure **free and fair voting**.

3. Reservation of Seats (Article 243D)

- Seats are reserved for **Scheduled Castes, Scheduled Tribes, and women** (at least 1/3 of total seats).
- This ensures **inclusive representation** and participation of marginalized groups.

4. Powers and Responsibilities (Article 243G)

- PROs have authority to **prepare plans for economic development and social justice**.
- They can implement schemes related to agriculture, health, education, sanitation, and local infrastructure.
- Powers are determined by **state legislatures**, but they must function within constitutional guidelines.

5. Finance, Taxation, and Grants (Article 243H & 243I)

- PROs have the **power to levy taxes, fees, and fines**.
- State governments provide **grants and resources** to enable them to perform effectively.

- Financial powers ensure **autonomy and accountability** at the local level.

6. State Election Commission (Article 243K)

- Supervises elections for Panchayati Raj bodies.
- Ensures **regular elections** and protects democratic rights at the local level.

7. Powers of Supervision and Control

- State governments can guide and supervise PROs, but **cannot dissolve them arbitrarily**.
- Encourages **autonomy while maintaining accountability**.

(b) What is a Financial Emergency? How does it affect the financial stability of the country? (5 mark)

Introduction

A **Financial Emergency** is a rare and serious situation in which the **financial stability or credit of India** is threatened. It is provided under **Article 360** of the Indian Constitution. Such an emergency empowers the **Union Government** to take extraordinary steps to restore economic stability and ensure smooth functioning of the country.

Definition

- Article 360 states that if the **President of India** is satisfied that the **financial stability or credit of India is threatened**, they can proclaim a Financial Emergency.
- It is usually declared **on the advice of the Union Cabinet**.
- Unlike National or State Emergency, a Financial Emergency has **no scope for judicial approval**, but it must be approved by **both Houses of Parliament** within **two months**.

Effects on Financial Stability

1. Control Over State Finances

- The **Union government gains the power to direct states** regarding the management of their finances.
- Salaries of government employees, pensions, and other expenditures can be regulated to save funds.

2. Reduction of Salaries

- The President may direct a **reduction in salaries and allowances** of all government officials, including judges of High Courts and Supreme Court.
- Helps in controlling excessive expenditure and maintaining financial balance.

3. Centralization of Financial Powers

- States must follow **financial directives** from the Union.
- Borrowing, expenditure, or fiscal policies at the state level come under Union supervision.
- Ensures a coordinated effort to restore economic stability.

4. Impact on Governance

- PROs and other local bodies may experience **reduced financial autonomy**.
- Fiscal discipline becomes mandatory to stabilize the economy.

5. National Credit and Economy

- Protects the **creditworthiness of India** in domestic and international markets.

- Prevents economic collapse due to debt crises, mismanagement, or financial instability.